



The Commonwealth of Massachusetts

House of Representatives

State House, Boston 02133-1054

February 15, 2006

Walter Cruickshank, Acting Director
Minerals Management Service
Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

In Re: RIN 1010-AD30; and an Alternative Energy-Related Uses on the Outer Continental Shelf ("OCS").

Dear Mr. Cruickshank:

We are writing to comment on MMS' rulemaking regarding alternate energy uses on the OCS. As an initial matter, we urge MMS to take no action that would contravene or delay the gains we have made in Massachusetts since 1997 in progressive energy policies and the entrepreneurial development of renewable energy generation projects, including development on the OCS. We would be very appreciative if the regulations adopted by the MMS do not conflict with important legislative policies in Massachusetts, including those established by Chapter 164 of the Acts of 1997, *An Act Relative to Electric Utility Industry in the Commonwealth, Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protection Therein* ("Electric Restructuring Act"), which amongst other things, reformed the state's energy facility siting process and power markets and created a renewable energy portfolio requirement.

These legislative initiatives have led directly to the proposed development of the Cape Wind project on the OCS, which is exactly the type of innovation that Massachusetts sought to incentivize. Cape Wind has now been subjected to more than four years of state and federal regulatory processes. The fate of the project should be decided on the merits in a timely manner, and the development by MMS of generally applicable rules should not be allowed to delay or frustrate that result.

Massachusetts has also acted specifically to open the electrical generation sector to entrepreneurial initiative. Our reformed siting process and restructured power markets now allow industry participants (using their own business, engineering and technical acumen, as well

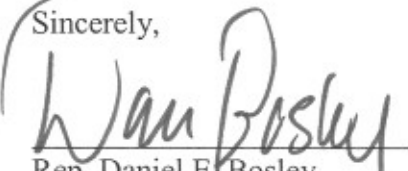
as private capital) to identify and propose new generation proposals, which are then subjected to a rigorous but timely review (*i.e.*, a specifically limited 12 month period) by the Energy Facilities Siting Board – a review process based upon a site-specific, evidentiary record assessing the merits of the project, as well as feasible alternative technologies and locations. The MMS should be aware that this regulatory construct reflects a conscious and carefully considered legislative policy to redirect the region's electrical generation industry away from centralized government planning in order to foster entrepreneurial thinking and innovation. Experience with the electrical generation industry and the restructured power markets demonstrates that the public will realize the greatest benefits from entrepreneurial initiatives, rather than a regulatory system based upon restrictive predeterminations as to what electrical generation facilities, in what locations, would be most consistent with the public interest.

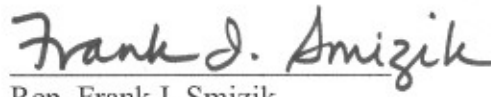
We also urge the MMS to focus first upon the permitting of the limited number of renewable projects that are technically and economically viable today, and leave to the future the further consideration of other OCS technologies (and any related "programs") that may not be feasible for decades to come. The critical fact is that real-world constraints (including unsuitable OCS water depths, wave height conditions and transmission access) make viable sites on the American OCS both rare and extremely difficult to identify. If MMS were to hinder or delay the development of those few renewable energy projects that are now viable, including those referenced in the pending pre-enactment applications, it would frustrate both state and federal initiatives regarding renewable energy and environmental quality.

Finally, with respect to "coordination and consultation" with affected states, the MMS should in each case refer to the state entity responsible for energy facility siting issues. For example, the Massachusetts Legislature has created an Energy Facilities Siting Board ("MEFSB") with the special expertise and authority to resolve energy siting issues in a manner that focuses upon the public interest, rather than political influence. The MMS regulations should thus afford due deference to the adjudicatory findings of the MEFSB and comparable state bodies. We note in this regard that the MEFSB has, after a full adjudicatory proceeding, found that the energy of the Cape Wind project is needed for reasons including the lowering of electrical costs, enhancing electrical reliability, and allowing compliance with state RPS requirements (See, EFSB 02-2 (2005)) and the MMS regulations should afford appropriate recognition of such determination by the Commonwealth of Massachusetts.

Thank you for your attention to this matter.

Sincerely,


Rep. Daniel E. Bosley
House Chairman
Joint Committee on
Economic Development and
Emerging Technologies


Rep. Frank I. Smizik
House Chairman
Joint Committee on Environment,
Natural Resources and
Agriculture

John J. Binienda

Rep. John J. Binienda, Sr.
House Chairman
Joint Committee on Revenue

Brian S. Dempsey

Rep. Brian S. Dempsey
House Chairman
Joint Committee on Telecommunications,
Utilities and Energy

Michael W. Morrissey

Senator Michael W. Morrissey
Senate Chairman
Joint Committee on Telecommunications,
Utilities and Energy